

Application Serial No. 10/581,954
Response to Office Action dated November 24, 2008

PATENT
Docket: CU-4863

REMARKS

At the issuance of the Office Action dated September 14, 2009, claims 1, 3, 5-12 and 16 are pending and are rejected. The Applicant submits that the amendments made to the claims overcome the rejection of the same or the rejections are traversed by argument below. No new matter has been added.

In the claims, please amend claim 1 to recite that the natural secretions are "pygidial gland secretions". Claim 1 is also amended to include that the secretions are obtained in a glass specimen. Support for this amendment can be found in the original disclosure on page 5, second paragraph, of the PCT published application. Claim 5 is amended to include the features of claim 16 and claim 16 is cancelled. The amendments to the claims are fully supported by the original disclosure, and therefore, no new matter has been added. The amendments to the claims can be viewed in the Amendments section in the Listing of claims beginning on page 3 of this paper.

In the Office Action, the Examiner rejected claims 1 and 3 under 35 U.S.C. §112, second paragraph for being indefinite. In response, the Applicant has amended the claims and submits that the amendments overcome the rejection. The Applicant respectfully requests that the Examiner withdraw this ground of rejection.

The Examiner also rejected claims 1 and 3 under 35 U.S.C. §103(a) as unpatentable over Dodd's Publication ("Dodd's") in view of the Will Publication ("Will") and Slugs and Snails Publication ("SS").

Regarding claim 1, the Applicant submits that claim 1 is non-obvious.

The Examiner indicates that Dodd's does not disclose or suggest that the secretions contain the various acids that are listed in claim 1, nor does Dodd's disclose or suggest that the application surface is a portion of a plant. The Examiner uses Will et al. to disclose the acids and that these acids could deter a slug.

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The present invention provides that the secretions are obtained in a glass specimen. This feature is not provided in Dodd's or Will et al., as is indicated by the Examiner on page 5 of the Office Action lines 9-11. Rather, in both cases, the secretions are provided on a filter paper. The present application, on page 5 of the PCT published application paragraph 2, provides that a specimen made of glass and not the normal filter paper is used to transfer these secretions because glass keeps the secretions free from contamination.

Furthermore, the Examiner indicates on page 7 of the Office Action that it would have been obvious to combine Dodd's with Will et al. and SS to apply the secretions to a plant surface. The Applicant disagrees.

The SS reference discloses that vinegar and water are sprayed directly onto the slugs. Clearly, the method of claim 1 is different from the combination of the prior art as is evident by the tragic end to the slugs in SS whereby "The gastropods die almost immediately." (See SS, paragraph 5.) On the contrary, by the method of claim 1, "the slugs do not die during the course of this experiment. This must show that when slugs are exposed to beetle extracts there will be no side effects." (Original Abstract, now replaced). All of the features of claim 1 are not taught, disclosed, or suggested by the references. Moreover, nowhere in SS is provided that acids are sprayed onto the plant. In fact, SS teaches away from applying acids to the plant for fear of damaging the foliage. (See SS page 1 of 3, paragraph Heinz White Vinegar.)

The combination of references does not teach obtaining the secretions in a glass vessel. The combination of references does not provide a method whereby acids are applied to a plant, let alone a pea plant, to deter, rather than kill, the slugs. Therefore, the Applicant submits that the present invention, as claimed in claims 1 and 3, is non-obvious and allowable and respectfully requests that the Examiner withdraw this objection to the claims.

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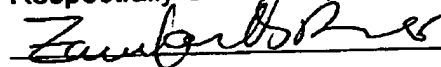
The Examiner also rejected claims 5-12 and 16 under 35 U.S.C. §103(a) as unpatentable over Bug Juice Spray and Curative Control in view of the Will publication.

The Applicant respectfully disagrees and submits that the claims are non-obvious and allowable. Nowhere in the combination of references is provided that the beetles from where the secretions are obtained are as listed in amended claim 5 (previously claim 16). Nowhere in the Office Action has the Examiner asserted the same. The Applicant submits, therefore, that at least for this reason claims 5-12 are non-obvious and allowable and requests that the Examiner withdraw this rejection of the claims.

CONCLUSION

The Applicant believes that this response is responsive to all points raised in the Office Action dated September 14, 2009. The Applicant respectfully contends that all conditions of patentability are met in the pending claims and requests that the amendments be entered into the record. The Applicant respectfully submits that this Application should be in condition for allowance and respectfully requests favorable consideration.

Respectfully Submitted,



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